

## FUNDING FOR TOURISM

2005 GENERAL SESSION

STATE OF UTAH

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### LONG TITLE

#### General Description:

This bill modifies provisions relating to tourism advertising, marketing, and branding.

#### Highlighted Provisions:

This bill:

- modifies the duties, membership, and powers of the Board of Travel Development within the Division of Travel Development;
- modifies provisions of the Tourism Marketing Performance Fund to establish a budget base and provide a set-aside of a percentage of the increase in tourism-generated tax revenue as a funding source for increased tourism promotion;
- provides for the creation and funding of a Cooperative Program with cities, counties, and nonprofit destination marketing organizations to advertise and promote tourism;
- provides for sunset review of the Board of Travel Development; and
- makes certain technical changes.

#### Monies Appropriated in this Bill:

This bill appropriates:

- \$10,000,000 as an ongoing appropriation subject to future budget constraints and with an automatic \$1,000,000 reduction in each fiscal year following fiscal year 2005-06.

#### Other Special Clauses:

This bill takes effect on July 1, 2005.

**Utah Code Sections Affected:**

**AMENDS:**

**9-3-201**, as last amended by Chapter 109, Laws of Utah 1994

**9-3-202**, as last amended by Chapter 176, Laws of Utah 2002

**9-3-203**, as last amended by Chapter 109, Laws of Utah 1994

**9-3-204**, as last amended by Chapter 207, Laws of Utah 2002

**63-55-209**, as last amended by Chapters 37 and 90, Laws of Utah 2004

**ENACTS:**

**9-3-207**, Utah Code Annotated 1953

**REPEALS:**

**9-2-1701**, as enacted by Chapter 301, Laws of Utah 1997

**9-2-1702**, as last amended by Chapter 159, Laws of Utah 2001

**9-2-1703**, as last amended by Chapter 159, Laws of Utah 2001

**9-2-1703.5**, as last amended by Chapters 16 and 83, Laws of Utah 2003

**9-2-1704**, as last amended by Chapter 159, Laws of Utah 2001

**9-2-1705**, as last amended by Chapter 159, Laws of Utah 2001

**9-2-1706**, as enacted by Chapter 159, Laws of Utah 2001

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **9-3-201** is amended to read:

**9-3-201. Board of Travel Development.**

(1) There is created within the department the Board of Travel Development.

(2) The board shall advise the division ~~[in]~~ on the division's planning, policies, and strategies and on trends and opportunities for travel development that may exist in the various areas of the state.

(3) The board shall perform other duties as required by Section 9-3-203.

Section 2. Section **9-3-202** is amended to read:

**9-3-202. Members -- Meetings -- Expenses.**

(1) (a) The board shall consist of ~~[nine]~~ 13 members appointed by the governor to four-year terms of office with the consent of the Senate.

(b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(2) The members may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(3) Not more than ~~[five]~~ seven members of the board may be of the same political party.

(4) (a) The members shall be representative of:

(i) all areas of the state with six being appointed from separate geographical areas as provided in Subsection (4)(b); and

(ii) a diverse mix of ~~[the travel and]~~ business ownership or executive management of tourism related industries.

(b) The geographical representatives shall be appointed as follows:

(i) one member from Salt Lake, Tooele, or Morgan County;

- (ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;
- (iii) one member from Utah, Summit, Juab, or Wasatch County;
- (iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;
- (v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and
- (vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.

(c) The ~~[travel and]~~ tourism industry representatives of ownership or executive management shall be appointed ~~[from among active participants in the ownership or management of travel and tourism-related businesses.]~~ as follows:

(i) one member from ownership or executive management of the lodging industry, as recommended by the lodging industry for the governor's consideration;

(ii) one member from ownership or executive management of the restaurant industry, as recommended by the restaurant industry for the governor's consideration;

(iii) one member from ownership or executive management of the ski industry, as recommended by the ski industry for the governor's consideration; and

(iv) one member from ownership or executive management of the motor vehicle rental industry, as recommended by the motor vehicle rental industry for the governor's consideration.

(d) One member shall be appointed at large from ownership or executive management of business, finance, economic policy, or the academic media marketing community.

(e) One member shall be appointed from the Utah Tourism Industry Coalition as recommended by the coalition for the governor's consideration.

(f) One member shall be appointed to represent the state's counties as recommended by the Utah Association of Counties for the governor's consideration.

(g) (i) The governor may choose to disregard a recommendation made for a board member under Subsections (4)(c), (e), and (f).

(ii) The governor shall request additional recommendations if recommendations are disregarded under Subsection (4)(g)(i).

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term from the same geographic area or industry representation as the member whose office was vacated.

(6) ~~[Five]~~ Seven members of the board ~~[constitutes]~~ constitute a quorum for conducting board business and exercising board powers.

(7) The governor shall select one of the board members as chair and one of the board members as vice chair, each for a ~~[two-year]~~ four-year term as recommended by the board for the governor's consideration.

(8) (a) Members shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members may decline to receive per diem and expenses for their service.

(9) The board shall meet ~~[at least once each quarter]~~ monthly or as often as the board determines to be necessary at various locations throughout the state.

(10) Members who may have a potential conflict of interest in consideration of fund allocation decisions shall identify the potential conflict prior to voting on the issue.

(11) (a) The board shall determine attendance requirements for maintaining a designated board seat.

(b) If a board member fails to attend according to the requirements established pursuant to Subsection (11)(a), the board member shall be replaced upon written certification from the board chair or vice chair to the governor.

(c) A replacement appointed by the governor under Subsection (11)(b) shall serve for the remainder of the board member's unexpired term.

Section 3. Section **9-3-203** is amended to read:

**9-3-203. Board duties.**

(1) The board shall:

(a) ~~[review]~~ have policy authority to approve a program of ~~[information,]~~ out-of-state advertising, [and publicity relating to the recreational, scenic, historic, highway, and tourist attractions of the state at large; and] marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for travel development on a statewide basis, as a condition of the distribution of funds to the division from the Tourism Marketing Performance Fund under Section 9-3-207;

~~[(b) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, civic groups, and governmental agencies engaged in publicizing,~~

~~developing, and promoting the scenic attractions and tourist advantages of the state.]~~

(b) review the division programs for coordination and integration of advertising and branding themes to be used whenever possible in all division programs, including recreational, scenic, historic, and tourist attractions of the state at large;

(c) encourage and assist in coordination of the activities of persons, firms, associations, corporations, civic groups, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state; and

(d) (i) establish a Cooperative Program from the monies in the Tourism Marketing Performance Fund under Section 9-3-207 for use by cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing monies committed by these entities for advertising and promotion to and for out-of-state residents to attract them to visit sites advertised by and attend events sponsored by these entities;

(ii) the Cooperative Program shall be allocated 20% of the revenues from the Tourism Marketing Performance Fund;

(iii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board shall make rules:

(A) establishing eligibility, advertising, and timing requirements, and criteria; and

(B) providing for an approval process for applications.

(iv) an application from an eligible applicant to receive monies from the Cooperative Program must be submitted on or before the appropriate date established by the board; and

(v) Cooperative Program monies not used in each fiscal year shall be returned to the Tourism Marketing Performance Fund.

(2) The board may;

(a) solicit and accept contributions of moneys, services, and facilities from any other sources, public or private, and shall use these funds for promoting the general interest of the state in travel and tourism[-]; and

(b) establish subcommittees for the purpose of assisting the board in an advisory role only.

(3) The board may not, except as otherwise provided in Subsection (1)(a), make policy related to the management or operation of the division.

Section 4. Section **9-3-204** is amended to read:

**9-3-204. Division of Travel Development -- Powers and duties -- Travel development plan -- Annual report and survey.**

(1) There is created within the department the Division of Travel Development under the administration and general supervision of the director.

(2) (a) The division shall be under the policy direction of the director.

(b) The director shall receive approval from the Board of Travel Development under Subsection 9-3-203(1)(a) to execute the out-of-state advertising, marketing, and branding campaign.

(3) The division shall:

(a) be the travel development authority of the state;

(b) develop a travel ~~[promotion]~~ advertising, marketing, and branding program for the state;

(c) develop a plan to increase the economic contribution by tourists visiting the state;

(d) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, ~~[highway,]~~ and tourist advantages and attractions of the state at large; and

(e) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, travel regions, counties, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state~~[- and]~~.

(4) Any plan provided for under Subsection (3) shall address, but not be limited to, enhancing the state's image, promoting Utah as a year-round destination, encouraging expenditures by visitors to the state, and expanding the markets where the state is promoted.

(5) The division ~~[is encouraged to:]~~ shall conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy and to provide an annual evaluation of the economic efficiency of the advertising and branding campaigns conducted under this Part 2 to the Legislature's Workforce Services and Community and Economic Development Interim Committee and the Economic Development and Human Resources Appropriations Subcommittee.

~~[(a) conduct surveys on tourism promotion activities undertaken by cities and counties]~~

~~within the state; and]~~

~~[(b) in collaboration with the cities and counties surveyed, make an annual report to the Legislature on the economic benefit of those activities to the state and the cities and counties surveyed by the division.]~~

Section 5. Section **9-3-207** is enacted to read:

**9-3-207. Tourism Marketing Performance Fund.**

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Fund.

(2) The fund shall be administered by the department for use by the division for the purposes listed in Subsection (5).

(3) (a) The fund shall earn interest.

(b) All interest earned on fund monies shall be deposited into the fund.

(4) The fund shall be funded by appropriations made to the fund by the Legislature and increases in the sales and use tax revenues derived from the retail sales of tourist-oriented goods and services in accordance with this section.

(5) The director may use fund monies, as authorized and approved by the Board of Travel Development, to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by the division.

(6) (a) Monies deposited in the fund shall be as follows for each fiscal year.

(b) (i) For the fiscal year beginning July 1, 2005, the budget base shall be a \$10,000,000 appropriation.

(ii) For each succeeding fiscal year, the budget base shall be the prior fiscal year's budget base, as modified by Subsection (6)(c), plus any additional appropriations made to the division and the sales and use tax revenue increases identified in Subsection (7).

(c) The \$10,000,000 appropriation portion of the budget base shall decrease by \$1,000,000 in each fiscal year following fiscal year 2005-06.

(d) Monies in the fund are nonlapsing.

(7) (a) In fiscal years 2006 through 2015, a portion of the state sales and use tax revenues determined under this Subsection (7) shall be deposited to the credit of the fund.

(b) The State Tax Commission shall determine the amount to be deposited in the fund



under this Subsection (7) in each fiscal year by applying the following formula: if the increase in the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services in the fiscal year two years prior to the fiscal year in which the deposit is to be made to the fund is at least three percent over the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal year in which the deposit is to be made, an amount equal to one-half of the state sales and use tax revenues generated above the three percent increase shall be calculated by the commission and deposited by the state treasurer to the credit of the fund.

(c) Total deposits in the fund in any fiscal year under Subsection (7)(a) and (b) may not exceed the amount deposited in the fund under this section in the fiscal year immediately preceding the current fiscal year by more than \$3,000,000.

(d) As used in Subsection (7), "sales of tourism-oriented goods and services" are those sales by businesses registered with the State Tax Commission under the following codes of the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

- (i) NAICS Code 453 Miscellaneous Store Retailers;
- (ii) NAICS Code 481 Passenger Air Transportation;
- (iii) NAICS Code 487 Scenic and Sightseeing Transportation;
- (iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;
- (v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;
- (vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;
- (vii) NAICS Code 721 Accommodations;
- (viii) NAICS Code 722 Food Services and Drinking Places;
- (ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;
- (x) NAICS Code 4853 Taxi and Limousine Service;
- (xi) NAICS Code 4855 Charter Bus;
- (xii) NAICS Code 5616 Travel Arrangement and Reservation Services;
- (xiii) NAICS Code 44611 Pharmacies and Drug Stores;
- (xiv) NAICS Code 45111 Sporting Goods Stores;
- (xv) NAICS Code 45112 Hobby Toy and Game Stores;
- (xvi) NAICS Code 45121 Book Stores and News Dealers;

- (xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;
- (xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;
- (xix) NAICS Code 447190 Other Gasoline Stations;
- (xx) NAICS Code 532111 Passenger Car Rental; and
- (xxi) NAICS Code 532292 Recreational Goods Rental.

Section 6. Section **63-55-209** is amended to read:

**63-55-209. Repeal dates, Title 9.**

(1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is repealed July 1, 2014.

(2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

(3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is repealed July 1, 2010.

(b) Sections 59-7-610 and 59-10-108.7, regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2011.

(c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under Section 59-7-610 or 59-10-108.7:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-108.7 if the machinery or equipment is purchased on or after July 1, 2010; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b), if the expenditure is made on or after July 1, 2010.

(d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-108.7 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-108.7; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-108.7, the machinery or equipment is purchased on or before June 30, 2010; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b), the expenditure is made on or before June 30, 2010.

(4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed

July 1, 2008.

(5) Title 9, Chapter 3, Part 2, Division of Travel Development is repealed July 1, 2015.

~~[(5)]~~ (6) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed July 1, 2009.

~~[(6)]~~ (7) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2006.

**Section 7. Repealer.**

This bill repeals:

Section **9-2-1701, Purpose.**

Section **9-2-1702, Definitions.**

Section **9-2-1703, Creation and administration of fund.**

Section **9-2-1703.5, Appropriations to the fund.**

Section **9-2-1704, Distribution of fund monies -- Determination of recipients.**

Section **9-2-1705, Creation of Tourism Marketing Performance Fund Committee -- Members -- Appointment -- Qualifications -- Terms -- Quorum -- Per diem and expenses -- Staff.**

Section **9-2-1706, Duties of Tourism Marketing Performance Fund Committee.**

**Section 8. Appropriation.**

There is appropriated from the General Fund for fiscal year 2004-05, \$10,000,000 to the Tourism Marketing Performance Fund.

**Section 9. Effective date.**

This bill takes effect on July 1, 2005.